

15CV3030

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

JOSE DELACRUZ

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2015 APR 10 A 11:40

(In the space above enter the full name(s) of the plaintiff(s).)

-against-

City of New York

Joeseeph Ponte / Dora B. Schiro

Mayor De Blasio / Mayor Bloomberg

John Doe Conizon Health Services Manager G.M.D.C.

Governor Cuomo

## COMPLAINT

under the  
Civil Rights Act, 42 U.S.C. § 1983  
(Prisoner Complaint)Jury Trial: ☒ Yes ☐ No  
(check one)

(In the space above enter the full name(s) of the defendant(s). If you cannot fit the names of all of the defendants in the space provided, please write "see attached" in the space above and attach an additional sheet of paper with the full list of names. The names listed in the above caption must be identical to those contained in Part I. Addresses should not be included here.)

## I. Parties in this complaint:

- A. List your name, identification number, and the name and address of your current place of confinement. Do the same for any additional plaintiffs named. Attach additional sheets of paper as necessary.

Plaintiff

Name JOSE DELACRUZ

ID # 241 13 09339

Current Institution ~~NY~~ ~~NY~~ GEORGE Motchan Detention Center

Address 15 15 Hazen street

East Elmhurst, N.Y. 11370

- B. List all defendants' names, positions, places of employment, and the address where each defendant may be served. Make sure that the defendant(s) listed below are identical to those contained in the above caption. Attach additional sheets of paper as necessary.

Defendant No. 1 Name City of New York Shield # \_\_\_\_\_  
 Where Currently Employed Corporation Counsel  
 Address 100 Church street  
New York New York 10007

Defendant No. 2 Name Joeseeph Ponte Shield # \_\_\_\_\_  
 Where Currently Employed Commissioner D.O.C. of N.Y.  
 Address 75-20 Astoria Boulevard  
East Elmhurst New York 11370

Defendant No. 3 Name Mayor Bill DeBelasio Shield # \_\_\_\_\_  
 Where Currently Employed Gracie Mansion  
 Address CITY HALL  
New York New York

Defendant No. 4 Name Corizon Manager (J.D.) Shield # \_\_\_\_\_  
 Where Currently Employed Facility G.M.D.C. C-73  
 Address 15-15 Hazen street  
East Elmhurst New York 11370

Defendant No. 5 Name Govenor Cuomo Shield # \_\_\_\_\_  
 Where Currently Employed OFFICE OF GOVENOR  
 Address Executive Chambers, Capitol Building  
Albany New York 11370

## II. Statement of Claim:

State as briefly as possible the facts of your case. Describe how each of the defendants named in the caption of this complaint is involved in this action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Attach additional sheets of paper as necessary.

A. In what institution did the events giving rise to your claim(s) occur? George Motchan Detention Center C-73

B. Where in the institution did the events giving rise to your claim(s) occur? Intake area and bedding (Housing Area), Medical Identification

C. What date and approximate time did the events giving rise to your claim(s) occur? These issues occurred since my intake date of which is not exactly known to the plaintiff at this time.

a manifest injustice and clear error. The issue of improper bedding is cause for significant and atypical hardship

D. Facts: In approximately 2010 the NEW YORK CITY budget for the department of corrections eliminated the CORCRAFT and inner State facility mattress shop materials (BEDDINGS) for a more cheaper and cost effective (Mattress). It was already in error for having beds all one size and not accommodating for people over 5'11" tall but it also chose to overlook health and or other legal ramifications and detriment to the inmate population when they substituted the standard mattresses for non NEW YORK STATE STANDARD Mattress mats incomplete bedding sets and issued them to the full inmate population at Rikers Island. Causing the plaintiff extreme lower back pain, stiff neck, leg soreness, and further damaging other reported injuries. Mayor Bloomberg, Dora B. Shriro, Corporation Counsel (or their successors) are responsible to access a viable budgetary system in NEW YORK CITY to assure compliance with the State Correctional; health and hospital and chiropractic regulations for bedding et. al. in the city of New York Correctional Systems. That the failure to issue proper size bed frame and mattress per individual is a cause for the extreme leg and back pain. The sad thing is that the manager of the Corizon health services has also failed to declare an emergency and have the health department mandate emergency measures as the problem is of epidemic proportion

### III. Injuries:

If you sustained injuries related to the events alleged above, describe them and state what medical treatment, if any, you required and received. EXTREME PAIN IN LOWER BACK, NECK, SHOULDER, AND LEGS. Exacerbation of prior injuries. Extreme emotional distress as I cannot make a bed-mattress and every time I am able to get an extra blanket to stuff with a sheet to build a mattress it is taken on the search.  
Cruel and unusual punishment against the detainee herein as an individual and as a class of people is also a hate crime..

### IV. Exhaustion of Administrative Remedies:

The Prison Litigation Reform Act ("PLRA"), 42 U.S.C. § 1997e(a), requires that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted." Administrative remedies are also known as grievance procedures.

A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

Yes X No

If YES, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s).

Since 2013 I have been on the boat but for most of this stint I have been in G.M.D.C.

B. Does the jail, prison or other correctional facility where your claim(s) arose have a grievance procedure?

Yes ☒ No ☐ Do Not Know ☐

C. Does the grievance procedure at the jail, prison or other correctional facility where your claim(s) arose cover some or all of your claim(s)?

Yes ☐ No ☒ Do Not Know ☐

If YES, which claim(s)? This claim issue is a budget issue

D. Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose?

Yes ☒ No ☐

If NO, did you file a grievance about the events described in this complaint at any other jail, prison, or other correctional facility?

Yes ☐ No ☒

E. If you did file a grievance, about the events described in this complaint, where did you file the grievance?

Grievance filed in G.M.D.C. Facility

1. Which claim(s) in this complaint did you grieve? The mattress, bed frame, size and style is inappropriate for my weight and height

2. What was the result, if any? grievance declared they cannot do anything to fix the problem.

3. What steps, if any, did you take to appeal that decision? Describe all efforts to appeal to the highest level of the grievance process. Contacted lawyers and outside agencies sought appeal mechanism but was told there are none other than appeal through the courts

F. If you did not file a grievance:

1. If there are any reasons why you did not file a grievance, state them here: not applicable

2. If you did not file a grievance but informed any officials of your claim, state who you

informed, when and how, and their response, if any: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

- G. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies. I filed a grievance and was told D.O.C. has to address this issue because the grievance department cannot do anything other than file the grievance. Called inspector General at (212) 266 1900 and reported the incident, and called (212) 577 3530 the prisoner rights project all investigations were pending. Wrote to D.O.C. health department to seek emergency relief.

Note: You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.

V. Relief:

State what you want the Court to do for you (including the amount of monetary compensation, if any, that you are seeking and the basis for such amount). Compensatory damages 5,000,000.00 dollars, treble damages 45,000,000.00 dollars, Nominal damages with cost and fees 100,000,000.00 dollars and for such other and further relief to be deemed just and proper in and under the extreme circumstances of this matter as the issue known to the city and all defendants and they still fail to make concessions and reasonable accommodations for the plaintiff class.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_



## VI. Previous lawsuits:

A. Have you filed other lawsuits in state or Federal court dealing with the same facts involved in this action?

Yes \_\_\_\_\_ No ☒

B. If your answer to A is YES, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another sheet of paper, using the same format.)

1. Parties to the previous lawsuit:

Plaintiff \_\_\_\_\_

Defendants \_\_\_\_\_

2. Court (if federal court, name the district; if state court, name the county) \_\_\_\_\_

3. Docket or Index number \_\_\_\_\_

4. Name of Judge assigned to your case \_\_\_\_\_

5. Approximate date of filing lawsuit \_\_\_\_\_

6. Is the case still pending? Yes \_\_\_\_\_ No \_\_\_\_\_

If NO, give the approximate date of disposition \_\_\_\_\_

7. What was the result of the case? (For example: Was the case dismissed? Was there judgment in your favor? Was the case appealed?) \_\_\_\_\_

C. Have you filed other lawsuits in state or federal court otherwise relating to your imprisonment?

Yes \_\_\_\_\_ No ☒

D. If your answer to C is YES, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, using the same format.)

1. Parties to the previous lawsuit:

Plaintiff \_\_\_\_\_

Defendants \_\_\_\_\_

2. Court (if federal court, name the district; if state court, name the county) \_\_\_\_\_

3. Docket or Index number \_\_\_\_\_

4. Name of Judge assigned to your case \_\_\_\_\_

5. Approximate date of filing lawsuit \_\_\_\_\_

6. Is the case still pending? Yes \_\_\_\_\_ No \_\_\_\_\_

If NO, give the approximate date of disposition \_\_\_\_\_

7. What was the result of the case? (For example: Was the case dismissed? Was there judgment in your favor? Was the case appealed?) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I declare under penalty of perjury that the foregoing is true and correct.

Signed this \_\_\_\_ day of \_\_\_\_\_, 20 15.

Signature of Plaintiff

JOSE DELACRUZ

Inmate Number

24113 09339

Institution Address

15-15 Hazen street

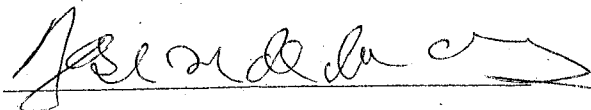
East Elmhurst, New York

11370

Note: All plaintiffs named in the caption of the complaint must date and sign the complaint and provide their inmate numbers and addresses.

I declare under penalty of perjury that on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, I am delivering this complaint to prison authorities to be mailed to the *Pro Se* Office of the United States District Court for the Southern District of New York.

Signature of Plaintiff:



# WARNING

Improper cleaning and/or disinfection will shorten the life of this product.

## Cleaning/Disinfection Instructions

Soils and stains: use soft sponge with neutral suds and warm water.

Hard to clean spots: use standard liquid household vinyl cleaners and soft sponge.  
Pre-soak if needed.

## Do Not Use

### Harsh Cleaners or Solvents.

Disinfection: dilute disinfectants and/or germicides as specified on manufacturer's product label.

## Use Disinfectants Only

In Those Dilutions Recommended  
By the Manufacturer.

Bob Barker Company, Inc. Fuquay-Varina.

This exhibit has a compliant identification number 1932

JV30754GDBL of which is the main number for all of the mattresses

UNDER PENALTY OF LAW  
TAG NOT TO BE REMOVED  
EXCEPT BY THE CONSUMER

ALL NEW MATERIAL

Consisting of

100% THERMALLY BONDED  
FIRE RESISTANT  
POLYESTER STAPLE

REG. NO. NC-769

Certification is made by the manufacturer  
that the materials in this article are  
described in accordance with law.

BOB BARKER CO. INC

P.O. BOX 429

FUQUAY-VARINA, NC 27526

MADE IN USA

Manufactured by:  
Bob Barker Co., Inc.  
7925 Purfoy Road  
Fuquay-Varina, NC 27526

Date of Manufacture:

Model: 1932 COMPLIANT

JV30754GDBL

Prototype ID: PJM25754-1

This mattress meets the requirements of  
16 CFR 1633 (federal flammability (open  
flame) standard for mattress sets) when  
used without a foundation.

THIS MATTRESS  
IS INTENDED TO BE USED  
WITHOUT A FOUNDATION



# WARNING

Improper cleaning and/or disinfection will shorten the life of this product.

## Cleaning/Disinfection Instructions

Soils and stains: use soft sponge with neutral soaps and warm water.

Hard to clean spots: use standard liquid household vinyl cleaners and soft sponges.  
Pre-soak if needed.

## Do Not Use

Harsh Cleaners or Solvents.

Disinfection: dilute disinfectants and/or pesticides as specified on manufacturer's product label.

## Use Disinfectants Only

In Those Dilutions Recommended By the Manufacturer.

Bob Barker Company, Inc. Fuquay-Varina, NC 27626

The receipts herein are all from 1 mattress of which all of the mattresses come from the same company and are all declared to be too thin and not to verily be cleaned with the cleaners at N.Y.C.D.O.C. from their sister company corcraft and D.O.C.S.

UNDER PENALTY OF LAW THIS  
TAG NOT TO BE REMOVED  
EXCEPT BY THE CONSUMER

ALL NEW MATERIAL

Consisting of

100% THERMALLY BONDED

FIRE RESISTANT

POLYESTER STAPLE

REG. NO. NC-769

Certification is made by the manufacturer that the materials in this article are described in accordance with law.

BOB BARKER CO. INC  
7925B PURFOY ROAD  
FUQUAY-VARINA, NC 27526

MADE IN USA

Manufactured by:  
Bob Barker Co., Inc.  
7925B Purfoy Road  
Fuquay-Varina, NC 27526

Date of Manufacture:

Model:

Prototype ID: PJM25754-1

This mattress meets the requirements of 16 CFR 1633 (federal flammability (open flame) standard for mattress sets) when used without a foundation.

THIS MATTRESS  
IS INTENDED TO BE USED  
WITHOUT A FOUNDATION

cleaning products are for three cleaning of their products, meanwhile Bob Barker products request standard liquid household vinyl cleaners with a note do not use harsh cleaners, nor any harsh solvents. The disinfectants we use say dangerous to humans and domestic animals. These mats start at 4 inches but reduce in a quick pace to a lesser size and cause extreme back pain. Thata P.A. at WEST FACILITY CLININ 18 lower A.M.K.C. C-95 Cooper(phone -tic ) has personally eyewitnessed the mattresses and declared said mattresses to be too thin for human beings to sleep on, she is medical and declared this is a serious D.O.C. issue, and she issued medication for lower back pain see medical records.

**DO NOT REMOVE THIS TAG  
UNDER PENALTY OF LAW.**

ALL NEW MATERIAL CONSISTING OF  
100% POLYESTER FILLING  
AND  
FLAME RETARDANT VINYL COVERING

Reg. No. NY - 6389

MADE BY

EASTERN  
CORRECTIONAL  
FACILITY  
INDUSTRY

NAPANOCH, NY  
12458

Open market sale  
Prohibited

EA035 (5/97)

Certification is made  
that the materials in this  
article are described in  
accordance with law.

LIBERTY L -670  
LIBERTY L-671  
Diamond Milcide

THIS PRODUCT IS COVERED WITH...



DAF AB

CARE AND CLEANING RECOMMENDATION:

**REMOVAL OF SURFACE SOIL AND STAINS**

Simply washing or brushing the stain with a mild neutral pH soap and warm water will achieve removal of surface soil and most surface stains. When brushing, use a soft bristle brush. Always rinse with warm water and allow to air dry.

**DISINFECTION**

When using a cleaning agent, always use mild disinfectants and only in the dilute concentrations recommended on the manufacturer's label. Never use concentrations higher than recommended, as damage to the product may occur.

**CAUTION**

Laundering is not recommended. Solvent based and harsh cleaning detergents should not be used on DAF AB institutional fabrics.

UNDER PENALTY OF LAW THIS  
TAG NOT TO BE REMOVED  
EXCEPT BY THE CONSUMER

ALL NEW MATERIAL  
Consisting of  
100% THERMALLY BONDED  
FIRE RESISTANT  
POLYESTER STAPLE

REG. NO. NC-769

Certification is made by the manufacturer  
that the materials in this article are  
described in accordance with law.

BOB BARKER CO. INC  
7925B PURFOY ROAD  
FUQUAY-VARINA, NC 27526

MADE IN USA

The receipt herein are all  
from 2010 and are smaller  
than originally intended.

Manufactured by  
Bob Barker Co., Inc.  
7925 Purfoy Road  
Fuquay-Varina, NC 27526

Date of Manufacture:

J. WAGDEL

Model:

Prototype ID: PJM25754-1

This mattress meets the requirements of  
16 CFR 1633 (federal flammability (open  
flame) standard for mattress sets) when  
used without a foundation.

THIS MATTRESS  
IS INTENDED TO BE USED  
WITHOUT A FOUNDATION

## WARNING

Improper cleaning and/or disinfection will shorten  
the life of this product.

### Cleaning/Disinfection Instructions

Soils and stains: use soft sponge with neutral  
acids and warm water.  
Hard to clean spots: use standard liquid  
household vinyl cleaners  
and soft sponge.  
Pre-soak if needed.

### Do Not Use

Harsh Cleaners or Solvents.

Disinfection: dilute disinfectants and/or  
germicides as specified on  
manufacturer's product label.

Use Disinfectants Only  
in Those Dilutions Recommended  
By the Manufacturer.

Manufactured by  
Bob Barker Co., Inc.  
7925 Purfoy Road  
Fuquay-Varina, NC 27526

Date of Manufacture:

Model:

Prototype ID: PJM25754-1

This mattress meets the requirements of  
16 CFR 1633 (federal flammability (open  
flame) standard for mattress sets) when  
used without a foundation.

THIS MATTRESS  
IS INTENDED TO BE USED  
WITHOUT A FOUNDATION

UNDER PENALTY OF LAW THIS  
TAG NOT TO BE REMOVED  
EXCEPT BY THE CONSUMER

ALL NEW MATERIAL  
Consisting of  
100% THERMALLY BONDED  
FIRE RESISTANT  
POLYESTER STAPLE

REG. NO. NC-769

Certification is made by the manufacturer  
that the materials in this article are  
described in accordance with law.

BOB BARKER CO. INC  
7925B PURFOY ROAD  
FUQUAY-VARINA, NC 27526

MADE IN USA

## WARNING

Improper cleaning and/or disinfection will shorten  
the life of this product.

### Cleaning/Disinfection Instructions

Soils and stains: use soft sponge with neutral  
suds and warm water.

Hard to clean spots: use standard liquid  
household vinyl cleaners  
and soft sponge.  
Pre-soak if needed.

### Do Not Use

Harsh Cleaners or Solvents.

Disinfection: dilute disinfectants and/or  
germicides as specified on  
manufacturer's product label.

### Use Disinfectants Only

In These Dilutions Recommended  
By the Manufacturer.

these receipts come from the  
mattress and they are from  
the year 2010.



